



STATE OF WASHINGTON
OFFICE OF
ATTORNEY GENERAL
OLYMPIA

DEFENDANT'S EXHIBIT
CASE NO. C04-0360P
EXHIBIT NO. 405

May 8, 1934

WASHINGTON STATE LIQUOR CONTROL BOARD,
Olympia, Washington.

GENTLEMEN:

Since your Honorable Body has put in action the State Liquor Law, as was expected, many diversified opinions have arisen as to the practicability of the law and the enforcement of the same.

No liquor legislation ever has existed that was satisfactory to everyone, and, in our opinion, no law ever will be devised which will be entirely satisfactory. That being the case, in the administration of the law and regulations of the same, there is sure to arise violations and infractions of the Board's administration, however wise such administration may be.

Soon after your Board was organized, the Attorney General's Office, through the late Assistant Attorney General, J. H. Secrest, who was assigned especially to advise your Board, then determined our duties and the duties of local officers as required by the laws, and a letter was mailed by this office to the several prosecuting attorneys, mayors and sheriffs, etc., of the State, suggesting to the several local officers their duties under the law, which in effect was no different, than has been the policy of the State, and in accord with the Constitution and statutory laws of the State, as to the duties of the Attorney General, the prosecuting attorneys and other peace officers. A copy of that letter follows:

"February 17, 1934.

"Dear Sir:

"Herewith we are pleased to hand you a copy of the Washington State Liquor Act, passed at the Extraordinary Session and approved by the Governor January 23, 1934.

"Your attention is especially directed to Paragraph 2 of Section 70 of said Act, which is in part as follows:

" * * * All state, county and municipal peace officers are hereby charged with the duty of investigating and prosecuting all violations of this act, and all fines imposed for violations of this act shall belong to the county, city or town wherein the court imposing the fine is located,'

and to the provisions of Section 81 of said Act, from which it will be observed that it is the duty of 'the prosecuting attorneys in each county to send to the Board at the end of each year, a written report of all prosecutions brought under this Act, in the county during the preceding year, showing in each case the date of trial, name of accused, nature of charges, disposition of case, and the name of the judge presiding.

"In each municipality having a police court, the judge of said court shall send to the Board a like annual report in respect of prosecutions brought under this act therein."

"By the provision of Section 66 of said Act, the Attorney General is made the general counsel of the Washington State Liquor Control Board.

"It is the purpose of the Liquor Control Board and of the undersigned to cooperate with you in every way helpful in the discharge of your duties as defined in Section 70, above quoted.

"It is hoped, therefore, that you will feel free to submit to us any question that may present itself to you in the discharge of your duties as they may arise."

If the law had not specifically made it the duty of all the county and municipal peace officers to investigate and prosecute all violations of the Act, it would have been their duty under the existing constitutional and statutory laws of the State. The law further provides that all fines imposed shall belong to the county, city or town, etc. It also makes it the duty of the prosecuting attorneys in every county to make a report of all prosecutions brought under the Act.

The law also provides that the Attorney General shall be the general counsel and shall assign such assistants as may be necessary to assist the Liquor Board in carrying out the provisions of the Act, which would have been the duty of the Attorney General if no such provision had been in the law.

The prosecuting attorneys, mayors, sheriffs and police of the municipalities need no order from the Liquor Control Board to prosecute all criminal violations of the State Liquor Law.

It is now one of the laws of the State and the criminal violations of the same devolves upon the local officers as a duty that can not be evaded without their being derelict in their duties. The constitution provides for the creation of prosecuting attorneys, and those officers are as much constitutional officers as the Attorney General. The powers and duties of both are created and limited, not by the common law, but by the laws enacted by the people of the State.

Our Supreme Court has said in several decisions that the prosecuting attorney is near to the people, and that upon him rests the power and duty to institute criminal prosecutions. Certain of his duties, such as filing a list of witnesses, as provided by section 2050, Rem. Rev. Stat., could not be performed by the Attorney General.

While this office is ready and willing to assist the local officers when necessary, yet, we think it well, to leave that duty as has been the policy of the State, where the law places it.

We, therefore, still adhere to the opinion, as formally determined by our letter mailed to the different local officers of the State, dated February 17, 1934, by the late Assistant Attorney General, J. H. Secrest, holding that the enforcement of all criminal violations of the State Liquor Law is the duty of local officers as other criminal violations of other State Laws.

Yours truly,

G. W. HAMILTON,

Attorney General.

GWH:MP.

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